IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 13598 of 2004

Between:

V.Rama Moorthy, s/o M.Venugopal Modiliar,
No.108, Arugondampoondi Big Street, Thottapalyam, Chittoor District.

..... PETITIONER

AND

1 The Secretary, Regional Transport Authority, Chittoor, Chittoor District.
2 The Assistant Motor Vehicle Inspector, Puttur, Chittoor District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, especially, one in the nature of writ of mandamus certiorari calling the connected records including the Vehicle Check Report dated 18-10-2003 and consequential proceedings R.No.28436/B1/2003, dt.12-01-2004 of the 1st respondent and quash the same as illegal, improper, unjust and arbitrary and contrary to the judgment of the Larger Bench reported in 2004(2) ALT 210 (LB) and further declare that the petitioner is entitled to get refund the amount of Rs.30,000/- with interest which was deposited for interim release of the vehicle.

Counsel for the Petitioner:MR.K.UMAPATHY

Counsel for the Respondents : GP FOR TRANSPORT

The Court at the stage of admission, made the following :

ORDER : (Per Sri Bilal Nazki, J)

Heard learned Counsel for the parties, who submit that the controversy in this Writ Petition is covered by a Larger Bench judgment of this Court, in *L.Royal Reddy & others Vs. Government of A.P., Transport, Roads and Buildings (Tr.II) Department and others*.

The petitioner's vehicle was originally registered as contract carriage. The allegations against the petitioner were that he misused the vehicle as stage carriage" and after enquiry, the petitioner was charged tax of Rs.1,96,000/-, changing the conditions of permit itself and treating it as a stage carriage. The controversy was settled by this Court in the above judgment that once the conditions of permit are violated, the remedy is not to change the conditions of permit itself, but to proceed for violation of the conditions, in accordance with law.

Following the same judgment, we set aside the order, allow the writ petition, give liberty to the respondents to proceed against the petitioner for violation of conditions of permit, if they so choose. If any amounts have been collected from the petitioner in pursuance of the demand notice, the same may be refunded to him. No costs.

_____

(BILAL NAZKI, J)

7th September, 2004.

_____

(S.ANANDA REDDY, J)

ajr

To

1 The Secretary, Regional Transport Authority, Chittoor, Chittoor District.
2 The Assistant Motor Vehicle Inspector, Puttur, Chittoor District.

3 Two C.Cs. to the GP for Transport, High Court buildings,

Hyderabad (O.U.T)

4 Two C.D. copies.